

To what extent can restorative justice be applied in murder cases involving children under Article 340 of the Criminal Code or Article 338 of the Criminal Code in conjunction with Article 55 of the Criminal Code? A case study of the murder of a child in Subang with Subang District Court Decision Number 1/Pid.Sus-Anak/2025/PN Sng

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ABSTRACT

This paper examines the application of restorative justice in cases of juvenile homicide under Indonesian law, focusing specifically on a case study involving the murder of a child in Subang, as reviewed in Subang District Court Decision Number 1/Pid.Sus-Anak/2025/PN Sng. The study uses a normative juridical approach to analyze the feasibility of applying restorative justice principles in such serious criminal cases, particularly those involving minors. The Indonesian Criminal Code (KUHP), Law on the Juvenile Court (UUPA), and restorative justice frameworks are explored in relation to the case. The paper discusses the role of the offender's age, mental state, and the victim's family's involvement in the restorative process, highlighting both the potential benefits and challenges of implementing restorative justice in juvenile homicide cases. The findings suggest that while restorative justice can be a rehabilitative tool for juvenile offenders, its application in cases involving serious offenses like murder is complex and requires careful consideration of the emotional impact on the victim's family, the offender's potential for reform, and societal expectations for justice. The paper concludes by recommending further exploration of restorative justice as part of broader juvenile justice reforms in Indonesia.

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1. INTRODUCTION

Restorative justice is a growing and increasingly recognized concept within the realm of criminal law, emphasizing the rehabilitation of offenders through reconciliation with victims and the

community, rather than focusing solely on punishment. This model seeks to repair the harm caused by criminal behavior through dialogue, understanding, and mutual agreement on restitution, offering a humane alternative to punitive systems. Traditionally

applied in minor criminal cases, restorative justice involves the offender, victim, and community in the rehabilitation process, emphasizing accountability and compensation for harm caused [1]. It includes practices such as victim-offender mediation, conferencing, and restorative circles, aiming for outcomes like apologies, restitution, and community amends [2]. The approach is deeply rooted in indigenous justice systems that prioritize repairing the social fabric and involving victims in the justice process [2]. However, its potential application in more serious offenses, such as murder—especially when involving child offenders—has sparked considerable debate. Proponents argue that the model's emphasis on dialogue and healing could support the rehabilitation and reintegration of young offenders [3], and the active involvement of victims and communities in the process may lead to more meaningful resolutions and reduced recidivism [4]. Nonetheless, critics question the suitability of restorative justice for all types of crimes, particularly those involving significant harm or power imbalances [2]. Persistent concerns remain regarding whether restorative justice adequately addresses victims' needs and ensures full accountability in severe cases [5].

In the Indonesian legal system, murder is defined under the Criminal Code (Kitab Undang-Undang Hukum Pidana or KUHP). Article 340 of the KUHP defines premeditated murder as a serious crime, carrying severe penalties. On the other hand, Article 338 of the KUHP criminalizes intentional killing without premeditation, while Article 55 addresses the role of an accomplice in a crime. When the perpetrator is a minor, however, the legal process and penalties differ, as children are generally treated under a separate set of rules governed by the Juvenile Justice System, as stipulated in the Law on the Juvenile Court (Undang-Undang Peradilan Anak, UUPA).

The focus of this paper is the application of restorative justice in murder cases involving children. Specifically, it analyzes the case of a child who committed murder in Subang, Indonesia, under Subang

District Court Decision Number 1/Pid.Sus-Anak/2025/PN Sng. This decision represents an instance where the judicial system considered both the gravity of the crime and the age of the perpetrator, potentially allowing for the exploration of restorative justice as a viable alternative to traditional punitive measures.

The central question this paper seeks to address is: To what extent can restorative justice be applied in murder cases involving children under Article 340 or Article 338 of the Indonesian Criminal Code, in conjunction with Article 55, specifically in the context of the Subang case? By investigating this question, the paper will provide insights into the legal framework surrounding juvenile offenders in Indonesia, the role of restorative justice in serious crimes, and the broader implications for juvenile justice reform in the country.

2. LITERATURE REVIEW

2.1 *Restorative Justice: Concept and Principles*

Restorative justice is a legal approach that prioritizes healing and reparation over punishment by actively involving victims, offenders, and communities in addressing the impact of crime. Practices like victim-offender mediation and community conferencing foster accountability, empathy, and dialogue, contributing to offender rehabilitation and victim healing [3], [6]. This model has been shown to reduce recidivism and strengthen community ties [4], [7], while also enhancing victim satisfaction through meaningful participation [6]. However, challenges remain, including societal biases, inconsistent application, and limitations in addressing complex crimes such as gender-based violence [7], [8].

2.2 *Restorative Justice in Juvenile Offenses*

Restorative justice in juvenile cases offers an effective alternative to punitive measures by focusing on rehabilitation and reintegration, particularly suited for young offenders who are more receptive to reform. These programs help juveniles take responsibility, understand the harm caused,

and make reparations, which can reduce recidivism [9], [10]. Studies show lower reoffending rates across various offender types [10], and in Brazil, restorative justice is seen as a path to resocialization [9]. With victim and community involvement, the approach increases satisfaction and public safety through mechanisms like dialogues and conferencing [8], [11]. However, challenges remain, including dependence on formal justice systems and limited applicability in addressing structural issues such as gender-based violence and racism [8], [11].

2.3 Restorative Justice and Serious Crimes

Restorative justice, traditionally reserved for less severe offenses, is increasingly being considered for serious crimes such as murder, especially involving juvenile offenders, due to its emphasis on healing and reconciliation rather than punishment. This approach aims to restore relationships among offenders, victims, and the community, offering a framework that seeks to balance justice, retribution, and rehabilitation. In murder cases involving juveniles, restorative justice can promote healing for both victims' families and offenders through dialogue and mutual understanding, potentially leading to emotional closure [12]. Community involvement further supports reintegration and collective healing (Mousourakis, 2004), while international examples from Canada and Belgium show that restorative justice can be applied even in grave offenses [13]. However, challenges remain, including the need for significant legal reforms and changes in societal attitudes [12]. Critics argue that applying restorative justice in murder cases may diminish the perceived seriousness of the crime, weakening the deterrent function of criminal law [14], and resistance from law enforcement professionals accustomed to retributive systems also hinders broader implementation [12].

2.4 Juvenile Justice in Indonesia

In Indonesia, the legal system for juveniles is governed by the Law on the Juvenile Court (Undang-Undang Peradilan Anak, UUPA), which was enacted in 2012.

This law provides a legal framework for handling cases involving minors, with an emphasis on rehabilitation and education rather than punishment. However, for serious crimes such as murder, Indonesian law still imposes a structured legal process, where minors may face criminal charges but are afforded different treatment compared to adults, including potentially lighter sentences and the possibility of rehabilitation.

Under the Indonesian Criminal Code, a minor who commits murder may be charged under Article 340 (premeditated murder) or Article 338 (intentional killing). However, the law also incorporates provisions for child offenders, allowing judges to take the offender's age and potential for rehabilitation into account when determining the penalty (Article 71 of the UUPA). This provision creates an opportunity for restorative justice practices to be integrated into the juvenile justice system, especially in cases where the minor demonstrates remorse and is willing to engage in restorative processes.

2.5 Previous Studies on Restorative Justice in Murder Cases Involving Children

Restorative justice in murder cases involving minors in Indonesia remains limited and inconsistent despite its potential benefits. While countries like New Zealand have shown its effectiveness in severe youth homicide cases, Indonesia's application is still largely experimental. Opportunities include victim recovery and juvenile offender reintegration [12], supported by indigenous practices in regions like Papua and Bali [15]. However, challenges such as legal reform needs, resistance from law enforcement (Jumra et al., 2024), and lack of resources and training [16] hinder implementation. Although Act Number 11 of 2012 provides a legal basis for restorative justice [17], and community involvement is emphasized [18], its application in serious juvenile crimes remains underdeveloped.

3. METHODS

3.1 Research Design

This study employs a normative juridical research design that focuses on analyzing existing legal norms, regulations, and jurisprudence to examine the application and interpretation of legal provisions—such as the Indonesian Criminal Code (KUHP) and the Law on the Juvenile Court (Undang-Undang Peradilan Anak, UUPA)—in the context of restorative justice. Using a qualitative approach, the research explores the feasibility of implementing restorative justice within Indonesia's legal framework, particularly for juvenile offenders charged with serious crimes like murder. It aims to understand how restorative justice principles align with legal provisions and how they may be practically applied. The study adopts a case-based method, centering on the Subang District Court decision (Number 1/Pid.Sus-Anak/2025/PN Sng) involving a child accused of murder, to evaluate whether restorative justice was, or could have been, considered within the judicial process.

3.2 Data Collection

The primary data for this study is derived from legal documents and case law, particularly the Subang District Court Decision Number 1/Pid.Sus-Anak/2025/PN Sng, which offers critical insights into how Indonesia's legal system addresses juvenile offenders involved in serious crimes like murder and serves as a basis to assess the potential application of restorative justice within the judicial process. Additionally, relevant provisions from the Indonesian Criminal Code (KUHP), specifically Articles 340, 338, and 55, are examined to understand their application to juvenile offenders and to explore whether the current legal framework allows room for restorative justice. The Law on the Juvenile Court (UUPA), which governs judicial procedures for minors, is also analyzed to identify references to restorative justice or rehabilitation mechanisms. To supplement the primary data, secondary sources such as academic literature, legal commentaries, and reports on restorative justice and juvenile justice are used to provide

a broader understanding of both the international and Indonesian perspectives on applying restorative justice in serious criminal cases.

3.3 Data Analysis

The data analysis in this study comprises two main components: legal text analysis and case study analysis. The legal text analysis involves a detailed examination of the Indonesian Criminal Code (KUHP), the Law on the Juvenile Court (UUPA), and relevant court decisions to explore how the legal framework addresses juvenile offenders, particularly in murder cases, and whether restorative justice principles are explicitly or implicitly embedded. This includes analyzing Articles 340 and 338, which pertain to murder, and Article 55 on accomplice liability, to determine their relevance to juveniles. Meanwhile, the case study analysis focuses on the Subang District Court Decision Number 1/Pid.Sus-Anak/2025/PN Sng to assess how the court handled the child's accountability, potential for rehabilitation, and the victim's family's rights. It evaluates whether restorative justice was considered and scrutinizes how factors such as the offender's age, mental state, and social background influenced the court's reasoning. These two analyses are integrated to assess the extent to which Indonesian law and judicial practices align with restorative justice principles in juvenile homicide cases, using the Subang case as a lens to evaluate its practical feasibility.

4. RESULTS AND DISCUSSION

4.1 Subang District Court Decision Analysis

The Subang District Court Decision Number 1/Pid.Sus-Anak/2025/PN Sng concerns a juvenile offender charged with the murder of another child. In this case, the court considered the offender's age, psychological condition, and social background to determine the most appropriate legal approach. The central issue was whether restorative justice principles could be applied to support the offender's rehabilitation while addressing the needs and emotional recovery of the victim's family. This case thus served as

a platform to evaluate the potential integration of restorative justice in serious juvenile crimes.

The offender was charged under Article 340 of the Indonesian Criminal Code (KUHP), concerning premeditated murder, and Article 338 on intentional killing. These provisions served as the legal foundation for prosecuting the case due to the gravity of the offense. However, the case also invoked Article 55 of the KUHP, which addresses the liability of accomplices and allows for contextual consideration—such as a lesser role in the crime or expressions of remorse. These elements opened the door for the court to assess whether the offender's circumstances warranted a more rehabilitative than punitive response.

Although the court took these criminal provisions into account, it also emphasized that the offender was a minor and therefore should be subject to the protections outlined in the Law on the Juvenile Court (UUPA). This law highlights the importance of rehabilitation, education, and social reintegration in handling juvenile offenders. Based on this legal framework, the court considered the application of restorative justice to be compatible with the goals of the juvenile justice system, particularly in light of the offender's psychological evaluation, which revealed emotional distress and limited comprehension of the consequences of their actions.

A key consideration in the case was the role of the victim's family, whose perspective is central to restorative justice processes. While some family members expressed openness to participating in a dialogue-based resolution, others were reluctant, preferring a punitive approach. This division reflects the challenges of implementing restorative justice in serious crimes, where emotional responses and expectations for retribution are understandably high. Despite this, the court encouraged the offender to acknowledge their wrongdoing and pursue accountability, signaling a partial alignment with restorative justice ideals even in the absence of full reconciliation.

4.2 Feasibility of Applying Restorative Justice in Juvenile Homicide Cases

Restorative justice aligns with the principles of juvenile justice in Indonesia, particularly through its emphasis on rehabilitation and the reintegration of young offenders into society. As stipulated in the Law on the Juvenile Court (UUPA), the legal system acknowledges that minors possess different levels of culpability and comprehension compared to adults, thus necessitating a distinct approach. This law promotes non-punitive measures such as diversion programs and educational sanctions, which reflect a commitment to fostering reform rather than imposing harsh penalties on juvenile offenders.

Restorative justice complements these legal provisions by encouraging offenders to take responsibility, develop empathy, and recognize the harm caused to victims and the broader community. In the Subang case, where a juvenile was involved in a murder, restorative practices could have included structured dialogue between the offender and the victim's family, enabling the expression of remorse, emotional healing, and possible reparations. However, this approach depends heavily on the offender's willingness to participate and the victim's family's openness to engage in such a process, which can be emotionally challenging and complex.

Despite its rehabilitative focus, applying restorative justice in serious crimes like murder remains contentious. Critics argue that it may dilute the perceived gravity of the offense and fail to satisfy societal expectations for justice. In the Subang case, some members of the victim's family were unwilling to participate, reflecting the deep emotional trauma and perceived inadequacy of restorative approaches in addressing severe crimes. Moreover, the Indonesian legal system's prevailing emphasis on punishment and deterrence, especially in homicide cases, can override restorative principles, signaling a broader societal preference for retributive justice when dealing with crimes of such magnitude.

4.3 Restorative Justice: A Pathway for Future Juvenile Justice Reform?

Despite these challenges, the Subang case demonstrates that restorative justice can be a viable alternative or complementary approach in juvenile justice, particularly when combined with traditional legal measures. The case suggests that restorative practices, such as victim-offender mediation, counseling, and family conferencing, can offer a pathway for the offender's rehabilitation, while also acknowledging the victim's needs.

In Indonesia, the legal framework for juvenile justice is still evolving, and the integration of restorative justice into the legal system may become a critical tool in reforming the juvenile justice process. The Subang case shows that restorative justice, when carefully implemented, could help address the emotional and psychological needs of both the offender and the victim's family, offering a more balanced approach to justice.

5. CONCLUSION

The application of restorative justice in juvenile homicide cases presents both challenges and opportunities within the Indonesian legal framework. The Subang District Court case illustrates the potential for restorative justice to meet the needs of both the offender and the victim's family through a

process that emphasizes rehabilitation and reconciliation. However, the seriousness of crimes like murder introduces significant barriers to the full implementation of restorative practices, particularly due to the emotional trauma experienced by victims' families and the broader societal expectation for retributive justice. These factors often complicate efforts to pursue non-punitive approaches, even when legal provisions support rehabilitation for minors.

In juvenile justice, considerations such as the offender's age, psychological condition, and social context play a crucial role in determining the suitability of restorative justice. The Subang case demonstrates that even in serious offenses, young offenders may benefit from processes that promote empathy, accountability, and reintegration. Nevertheless, the hesitance of the victim's family to participate highlights the difficulty of balancing restorative goals with the need for justice and closure. This study concludes that while restorative justice holds promise for reforming Indonesia's juvenile justice system, its application must be handled with care, ensuring that it honors the rights and dignity of both victims and offenders. Further research and pilot programs are essential to develop a more holistic, rehabilitative model of justice that aligns with Indonesia's legal and cultural context.

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